

## REMARKS

In light of the above amendments and following remarks, reconsideration of the application is respectfully requested.

### **Status of the Claims**

Claims 1-4 were previously pending.

Claim 1 and 2 stand rejected.

Claim 1 is amended. No new matter is added by way of the amendment.

Claim 3 is allowed.

Claim 4 is withdrawn.

Claim 4 is amended to revise an idiomatic error. No new matter is added.

Claim 5 has been added. No new matter is added.

Claims 1-5 are currently pending.

### **Rejection Under 35 U.S.C. § 103**

Claims 1 and 2 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,058,898 to Freese, V (“Freese”). The Examiner states that Freese discloses most of the features of the claimed invention, but admits that Freese does not disclose a cover on the bottom of the oil pan. The Examiner contends that it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the cover on the bottom of the oil pan.

Amended claim 1 recites, among other features, an oil pan structure with a bottom portion, a cover member on the bottom portion, and “an oil passage configured by the cover member and the bottom portion.”

In contrast, Freese discloses an oil pan with an oil inlet passage 48 and pickup passage 52 each formed integrally in the body of the oil pan 24. An oil cooler 44 is provided in a

side of the oil pan with tubing 64 carrying cooling liquid. A slotted cover 72 is provided on the side of the oil cooler.

Since the oil inlet passage 58 and pickup passage 52 of Freese are both integrally formed in the body of the oil pan and are separated from the slotted cover 72 by the tubing 64 and portions of the oil pan body. Neither of passage 58 or 52 is configured by a cover member and bottom portion as required by claim 1. The tubing 64 of Freese holds cooling liquid and does not hold oil, thus it is not an oil passage. Further, tubing 64 is not configured by a cover member and bottom portion of the oil pan, as required by claim 1.

Claim 1 also recites “a swelled portion formed on a bottom portion of the oil pan.” The alleged swelled portion of Freese is on a side of the oil pan. Thus, it is not formed in a bottom portion of the oil pan. There is no motivation or suggestion in Freese to include a swelled portion in bottom portion of the oil pan.

Claim 2 is patentable for at least the same reasons as claim 1. Further, claim 2 recites that an “oil strainer is interposed between the cover member and the bottom portion.” The Examiner states that the oil pick-up passage 52 of Freese may employ a strainer. There is no motivation to add a strainer to Freese. Further, there is no position within Freese in which an oil strainer could be added such that it was interposed between the cover member and bottom portion, as required by claim 2. There are no oil passages within Freese that are partially configured by the cover member 72. Thus, Freese does not disclose or suggest the features of claim 2. Applicants respectfully request reconsideration and withdrawal of the rejection.

### **New Claim 5**

New claim 5 recites that the oil sucked by the oil pump is sent to an oil tank. Support for this feature is included in the originally filed Specification, page 18, lines 4-5. In contrast to the feature of claim 5, Freese discloses that oil sucked by an oil pump is sent through pick-up passage 52 directly to the engine (Freese, column 4, lines 25-28). Thus, claim 5 is patentable over Freese.

### **Response to Arguments**

Applicants respectfully traverse the Examiner's arguments. In the previous response, dated June 30, 2006, Applicants argued that the swelled portion of Freese referenced by the Examiner is not opposite the crankcase, as required by claim 1. In response, the Examiner states that the crankcase holds the crankshaft and that "the crank is opposite the side of the pan inasmuch as it is opposite the bottom" (Detailed Action, page 3, last line). Applicants submit that claim 1 does not recite 'swelling the bottom portion to a side opposite to the crank.' Claim 1 recites "swelling the bottom portion to a side opposite to the crankcase." The crankcase of the engine is its own structural feature and its size, position and design is not defined by the crank. The crankcase of Freese is adjacent the swelled portion, and the swelled portion does not swell to a side opposite the crankcase.

Applicants also argued that Freese does not disclose an oil passage formed from the cover member and bottom portion. Separately, Applicants argued that the cover member of Freese is slotted and can not function as part of an effective oil passage. In response, the Examiner stated "if oil passes through it, it is a passage, slotted or not." Applicants note that the Examiner did not address the first argument made by Applicants, namely that the passage is formed from (or configured by) the cover member. The Examiner's response seems to address the second argument made by Applicants. However, the Examiner's response is unclear. Oil does not flow through the cover 72 of Freese. Thus, the relevance of the Examiner's statement is unclear. Notably, Freese does not disclose that the oil has any contact with cover 72.

### **CONCLUSION**

Each and every point raised in the Office Action dated August 2, 2006 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 1-5 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: December 4, 2006

Respectfully submitted,

By 

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